IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 5814 of 2005

Between:

T.Srinivas, S/o Janardhana Rao,

U.D.C.(Under Suspension)

Kendriya Vidyalaya, Steel Plant,

Visakhapatnam- 530 032

..... PETITIONER

AND

1. The Commissioner, Kendriya Vidyalaya Sangathan,

No.18, Institutional Area, New Delhi.

2. The Assistant Commissioner,

Kendriya Vidyalaya Sangathan,

Hyderabad Region, Picket, Secunderabad.

3. Dr.B.K.Satyanarayana, Dy.Commissioner, Trg(Rtd.,)

O/o Principal, Kendriya Vidyalaya Sangathan.

Visakhapatnam Steel Plant,Visakhapatnam.

4. The Principal, Kendriya Vidyalaya Sangathan,

Visakhapatnam Steel Plant,

Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, order or direction particularly one in the nature of Mandamus declaring the order in O.A.No.1333/2004,dated 24-12-2004 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad and letter No.F-8-5/88-KVG (viz) dated 18-12-1985 of the Dy.Commissioner (Admn)and as illegal, not correct, not according to law and principles of natural justice and the procedure prescribed under CCs (CCA) Rules and by quashing the same direct the respondents to permit the petitioner to nominate his defence assistant in the disciplinary enquiry initiated in pursuance of the charge-Memo.F-13-16/2002 KVS (HR)10405, dated 28-10-2002 and pass such other order or orders.

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondents: MR.B.N.SARMA

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the order, dated 24.12.2004, passed by the

Central Administrative Tribunal, Hyderabad Bench, in O.A.No.1333 of 2004.

2. The petitioner is working as Upper Divisional Clerk in Kendriya Vidyalaya, Visakhapatnam. A charge memo, dated 28.10.2002, was issued in the year 2002 alleging certain misconducts against him. In response to the said memo, he submitted a detailed explanation, dated 11.11.2002 denying the charges. In pursuance of the notice, dated 03.12.2004, issued by 3rd respondent-Enquiry Oficer, the petitioner nominated Mr.T.Janardhan Rao, retired Office Superintendent as Defence Assistant to appear and defend on his behalf and informed the same to the 3rd respondent through a letter dated 10.12.2004, but the said request was rejected by the 3rd respondent vide order, dated 15.12.2004. Therefore, he approached the Tribunal challenging the said order.

3. The Tribunal stated that it is not permitted to have the assistance of a retired employee. However, the Tribunal held that it is open for the petitioner to take the assistance of a retired employee of Kendriya Vidyalaya Sangathan, but not the assistance of any other Government servant, and dismissed the O.A.

4. Learned counsel for the petitioner submits that under the CCA Rules (for short, “the Rules”), the petitioner is entitled to take the assistance of a retired Government servant, and therefore, the order of the Tribunal is not sustainable.

5. We are afraid we cannot accept the contention raised by the learned counsel.

6. The Rules were adopted by the Kendriya Vidyalaya Sangathan, and in such a situation the Government servant should always be read with reference to the employee of the Kendriya Vidyalaya Sangathan and not the Government employee. Thus, we do not find any ground to interfere with the order of the Tribunal.

7. Accordingly, the Writ Petition is dismissed. No costs.

8. However, we grant two weeks time for enabling the petitioner either to appoint defence assistant or defend himself personally.

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G. BIKSHAPATHY, J

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P.S. NARAYANA, J

Date: 22.03.2005

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To

1. The Commissioner, Kendriya Vidyalaya Sangathan,

No.18, Institutional Area, New Delhi.

2. The Assistant Commissioner,

Kendriya Vidyalaya Sangathan,

Hyderabad Region, Picket, Secunderabad.

3. Dr.B.K.Satyanarayana, Dy.Commissioner, Trg(Rtd.,)

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Visakhapatnam Steel Plant,Visakhapatnam.

4. The Principal, Kendriya Vidyalaya Sangathan,

Visakhapatnam Steel Plant, Visakhapatnam.

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